

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MM Docket No. 95-44

In the Matter of

Amendment of Section 73.202(b), RM-8602  
Table of Allotments,  
FM Broadcast Stations.  
(Fair Bluff, North Carolina)

**REPORT AND ORDER  
(Proceeding Terminated)**

Adopted: August 11, 1995; Released: August 21, 1995

By the Chief, Policy & Rules Division:

1. At the request of Atlantic Broadcasting Co., Inc. ("petitioner"), the Commission has before it the *Notice of Proposed Rule Making*, 10 FCC Rcd 4018 (1995), alternatively proposing the deletion of vacant and unapplied-for Channel 287A at Fair Bluff, North Carolina, or the retention of the channel with a 12.7 kilometer (7.9 mile) northeast site restriction. Comments were filed by the petitioner, reiterating its desire to have Channel 287A deleted from Fair Bluff, and by S.O.S. Broadcasting ("SOS"), Jack Miller ("Miller") and Robert Gauss ("Gauss"), each expressing an intention to apply for Channel 287A at Fair Bluff. Reply comments were filed by the petitioner.

2. Petitioner, licensee of Station WDAR-FM, Channel 288C3, Darlington, South Carolina, currently operates with a directional antenna to protect the Fair Bluff allotment. It requested the deletion or site restriction of Channel 287A at Fair Bluff to accommodate Station WDAR-FM's pending application specifying non-directional operation (BMPH-950224ID). Miller, in stating his intention to apply for the channel, stated that he had no objection to the imposition of the proposed site restriction while Gauss was silent on the issue. SOS, however, objects to the site restriction, stating that the site restriction could "seriously" impair the viability of the station because of the "limited" principal community contour coverage capability of Class A stations. In addition, it believes the site restriction may make it extremely difficult, if not impossible, to locate an acceptable transmitter site given current local regulatory difficulties in establishing transmitter sites. SOS submits that the Commission prefers the establishment of new broadcast service over the enhancement of existing services, citing *Andalusia, Alabama*, 49 FR 32201 (1984). Because the petitioner has not shown that the imposition of the site restriction is the only way in which the station can achieve omnidirectional operation or that Station WDAR-FM's current coverage is inadequate, it urges the retention of Channel 287A at Fair Bluff without the proposed site restriction.

3. In response, petitioner states that the public interest would be served by imposing the proposed site restriction on Channel 287A at Fair Bluff because Station WDAR-FM will be able to provide service to an additional 3,800 people, while also permitting Fair Bluff to retain the FM channel. Petitioner states that SOS is the only party to object to the imposition of the site restriction, pointing out that neither Miller nor Gauss objected to the imposition of the proposed site restriction, with Miller affirmatively stating that it had no objection. It states that the reasons for SOS's objections, that the site restriction could make it difficult to provide Fair Bluff with the required city-grade signal and that general regulatory difficulties may make it difficult to locate an acceptable transmitter site, are wrong. Petitioner states that it has not only located a proposed transmitter site (at coordinates 34-21-08 North Latitude; 78-54-07 West Longitude) only 0.86 kilometers from the suggested reference coordinates from which a station could provide Fair Bluff with the required 70 dBu city-grade signal but also obtained permission to construct a transmitter. In addition, petitioner submits that it has contacted officials with the Columbus County building permit office who stated that they did not see any reason why a building permit would not be issued for the proposed facility and foresaw no local zoning problems. Finally, petitioner states that its technical consultant believes a proposed 105 meter tower would have no detrimental aeronautical effect since the site is approximately 20 kilometers from the nearest airport and thus FAA approval would be given.

**DISCUSSION**

4. We believe the public interest would be served by retaining Channel 287A at Fair Bluff since interests have been expressed in activating the channel, thus providing the community with its first local FM service. Moreover, we will not impose the site restriction requested by the petitioner. It has been our general policy not to change reference coordinates for vacant allotments in the course of a rule making proceeding in the absence of other changes in the Table of Allotments or to entertain rule making petitions solely to change reference coordinates. See, e.g., *Chatom, AL*, DA 95-1548, released July 18, 1995; *Grenada, MS*, 7 FCC Rcd 4838 (1992). The reason for this policy is to protect the integrity of the FM Table of Allotments, which would be comprised were we to change reference coordinates to accommodate FM applications. For example, as prospective applicants for a vacant FM channel may be in the process of obtaining specific site locations, a change in the reference coordinates of a vacant allotment could alter significantly the area of site availability.

5. Further, it is well established Commission policy to allot channels with the least site restriction possible. This provides prospective applicants with the greatest flexibility in selecting transmitter sites, thus aiding in the activation of new stations. See *Vacaville, CA*, 4 FCC Rcd 8315 (1989), *recon. den.*, 6 FCC Rcd 143 (1991). As presently allotted, Channel 287A requires a site restriction of 6.5 kilometers (4.1 miles) northwest. We do not believe that the benefits accruing from enabling Station WDAR-FM to operate omnidirectionally are sufficiently compelling to justify imposing such a substantially greater site restriction (12.7 kilometers (7.9 miles) northeast) than already necessary. According to the petitioner, omnidirectional operation will enable Station WDAR-FM to provide service to an additional 3,800 people. However, it provides no showing dem-

onstrating that the residents within the new service area are currently unserved or underserved or that the site specified in its outstanding construction permit is the only transmitter site available. Moreover, it would be premature to determine that the ultimate Fair Bluff licensee will not specify a transmitter site which can co-exist with an omnidirectional Station WDAR-FM, and petitioner has demonstrated that at least one such site exists.

6. Accordingly, IT IS ORDERED, That the petition of Atlantic Broadcasting Company, Inc. (RM-8602) IS DENIED.

7. The window period for filing applications for Channel 287A at Fair Bluff, North Carolina, will open on **October 5, 1995**, and close on **November 6, 1995**.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

Douglas W. Webbink  
Chief, Policy and Rules Division  
Mass Media Bureau